

Thames – Sydenham and Region Drinking Water Source Protection Source Protection Committee Discussion Paper

Report to Chair and members
Thames – Sydenham and Region
Source Protection Committee

Agenda # 2008.01.7a

Cc SP Management Committee

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Re: Terms of Reference Consultation

This discussion paper is intended as a preliminary discussion starter for the Source Protection Committee (SPC). Staff will bring other materials to the discussions at the committee meeting likely in the form of a presentation. This paper contains many questions which are intended to guide the committee through some of the decisions related to the consultation on the Terms of Reference.

Background

Working Groups

- Advice to the province on source protection included the concept of working groups to broaden participation in the development of source protection plans. Some of these documents included reference to a municipal working group.
- The act and regulation do not require municipal working groups, however they do require consultation with the municipalities in the development of the terms of reference.
- Municipalities may choose to do work on their own systems therefore municipal coordination will likely require the use of various municipal working groups.
- The *Discussion Paper on Participation in the Source Protection Planning Process* includes some local discussion on the use of working groups in the Source Protection Planning process. The section on working groups from the July 2007 discussion paper is reproduced below for easy reference.
- The discussion paper suggests that working groups be task specific. Municipal involvement in the development of the terms of reference is a task which lends itself to establishing a working group or groups.

Text Box 1 Working Groups Section from *Discussion Paper on Participation in the Source Protection Planning Process*

4. Source Protection Working Groups

The SP Committee may establish working groups to provide support, information, and expertise in the development of the assessment report and Source Protection Plan. Working group formation is generally not prescribed by the Province but rather is based on the needs of the SP Committee, although previous advice to the government suggested a requirement to have a municipal working group. The establishment of working groups also allows for participation by those not able to sit on the SP Committee, expanding the scope of participation by stakeholders and the public. The committee can explore several options regarding the formation of the working groups and will look toward input from stakeholders in their development.

It is recommended that working groups be based on tasks (e.g. an expertise in a particular area such as water budget, land use planning, or implementation). Another possibility is that working groups could be based on geography (cross-stakeholder working group within a Conservation Authority). Generally, working groups should include cross-sector involvement. One possible exception would be the municipal working group.

Working groups are expected to be technical resources to the committee and, as the name implies, work towards a well defined purpose. As such each working group will require a terms of reference that should include the purpose of the working group, geographic scope, members and their responsibilities, Conservation Authority staffing requirements, number of meetings, and the length of time the group will operate.

Each working group will include a SP Committee member who will be responsible for reporting back to the Committee on working group progress. Staff from the SP team assembled by the Conservation Authorities will act as a resource to the working groups.

*Some suggested working groups are listed below. An example of a working group outline is provided in appendix 4. These suggestions are provided to illustrate the potential for broader public involvement in the development of Source Protection Plans beyond Discussion Paper on the Source Protection Planning Process Thames-Sydenham and Region Drinking Water Source Protection June 29, 2007 Version 1.7
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participation on the SP Committee. They are, however, just suggestions that will be provided to the SP Committee for consideration as the Committee proceeds with the development of the plan.

- o Communications*
- o Water Quantity*
- o Surface Water Vulnerability*
- o Groundwater Vulnerability*
- o Land Use Planning*
- o Threat Assessment (CA-based)*
- o Implementation (CA-based)*

Terms of Reference

- The CWA and OReg 287/07 require that terms of reference be developed for each Source Protection Area by the SPC and submitted to the SPA.
- The regulation also requires that the ToR include:

Text Box 2: O.Reg 287/07 s3 (1)

1. A map showing the boundaries of the source protection area and the boundaries of every municipality in which any part of the source protection area is located.
2. If the source protection area is part of a source protection region, a map showing the boundaries of the source protection region, the boundaries of every source protection area located in the region and the boundaries of every municipality in which any part of the source protection region is located.
3. A list of all of the municipalities in which any part of the source protection area is located.
4. A copy of any resolutions passed by councils of municipalities under,
 - i. subsection 8 (3) or (6) of the Act, or
 - ii. subsection 5 (1), (2) or (4) of Ontario Regulation 286/07 (Miscellaneous) made under the Act.
5. A table setting out the following information for each existing and planned drinking-water system to which clause 15 (2) (e) of the Act applies for the purpose of preparing the assessment report:
 - i. The drinking water system number of the drinking-water system, if one has been assigned.
 - ii. The name of the drinking-water system.
 - iii. The owner of the drinking-water system.
 - iv. The operating authority for the drinking-water system.
 - v. Whether the drinking-water system obtains water from a raw water supply that is groundwater or surface water.
6. A table setting out the information referred to in subparagraphs 5 i to v for each existing municipal drinking-water system to which, pursuant to subsection 5 (1) of Ontario Regulation 286/07 (Miscellaneous) made under the Act, subclause 15 (2) (e) (i) of the Act does not apply for the purpose of preparing the assessment report.
7. If the Minister has notified the source protection committee that, when he or she receives the proposed terms of reference under section 10 of the Act, he or she may consider requiring an amendment to the terms of reference to provide, for the purposes of subclause 15 (2) (e) (iii) of the Act, that the assessment report consider one or more existing or planned drinking-water systems that are located in the source protection area and are specified by the Minister, a table setting out the information referred to in subparagraphs 5 i to v for each of the specified systems.
8. A list of matters that require consultation with a source protection committee for another source protection area during the preparation of the assessment report and source protection plan, and, for each matter, the name of the other source protection area and a description of the matter.
9. A work plan that identifies all of the major tasks to be completed in the preparation of the assessment report and source protection plan and that includes the following information for each task:
 - i. The person or body responsible for performing the task.
 - ii. An estimate of the date by which the task is expected to be completed.
 - iii. An estimate of the costs that are expected to be incurred in performing the task.
10. The date by which, pursuant to section 3 of Ontario Regulation 285/07 (Time Limits) made under the Act, the source protection authority is required to submit the proposed source protection plan to the Minister and take the other steps that are required for it to comply with section 25 of the Act. O. Reg. 287/07, s. 3 (1).

- The MOE is developing a Terms of Reference Wizard to assist in the development of the Terms of Reference and to control the format of the legislated requirements of the terms of reference. This wizard will populate a database with the components of the terms of reference so that the terms of reference may be submitted electronically and progress on or changes to the terms of reference may be compiled and tracked electronically.
- Municipalities and specifically their councils will need to consider, and where appropriate, pass resolutions on:
 - Systems to be designated beyond the municipal residential systems required by the act to be included. These may be public or private systems, but may not include single residential systems unless part of a cluster of more than 6.
 - Systems to be excluded from the source protection plan. The act allows for municipal councils to exclude sources which will not be municipal residential drinking water sources by the time the plan is approved.
 - Which aspects of the plan development that the municipality wishes to undertake on their own systems.
- It will be important that there be open lines of communication between the municipalities and the SPC so that these items can be represented correctly in the terms of reference. Further, for work being undertaken by the SPC or the CA staff, working groups will allow for pre-consultation with the municipalities in the development of the terms of reference to ensure that the planned work is in consistent with municipal needs.
- The Act and regs require that clerks be notified that work on the terms of reference is underway. This is an opportunity to invite municipalities to participate early in the development of the terms of reference.
- These regulations also require that the SPC provide clerks with a copy of the draft terms of reference and that they have the opportunity to provide comments.

Discussion

- A preliminary summary schedule for the development of and consultation on the terms of reference is attached.
- The schedule includes municipal forums at which municipal staff and councilors may be informed of their legislated responsibilities under the CWA.
- In the past forums were held in each of the CAs to allow municipalities options of locations, dates and times and minimizing travel.
- Having a single forum would allow all municipalities to be able to participate together in establishing the process for contributing to the terms of reference.
- Having 2 (or more) sessions will allow for a greater number of participants from the municipalities reducing the potential for scheduling conflicts to prevent participation.
- As will be discussed later, further participation will likely be through the working group(s). Thus having multiple sessions will likely not place a significant restriction on the discussions.

Question 1: Is a municipal forum the best way to engage municipal staff and councils in the development of the terms of reference? Further, how many municipal forums would be appropriate for this consultation?

- Consultation on the terms of reference should include clerks, planners and water system operators as well as councilors. With 47 municipalities in the region this could result in a working group size which will not be workable. Those not wishing to participate in working groups may find forums offer an adequate level of participation.
- Working groups could be established based on:
 - **Surface Water /Ground Water Supplies** - Issues and science for surface water sources should be similar across the region whereas they differ from those of GW. Municipalities in the region generally rely on either SW or GW resulting in little overlap. Having separate working groups for SW and GW also establish good geographic grouping as well. Smaller working groups could be established for Lake Huron and Erie if smaller working groups were preferred. It will be important not to have too many working groups with the tight timeframes for completing the terms of reference. There are aspects of both the technical work and the plan development which are or should be consistent to both SW and GW sources. These will become significant in establishing risk management alternatives. A wrap-up forum would bring these 2 working groups back together with broader municipal participation. If these working groups are to be used for subsequent work in the assessment report and the source protection plan, establishing separate surface and ground water groups would result in less overlap between working groups.
 - **Planning/Technical**-separating planning (SP plan) and technical (Assessment Report) components of the terms of reference could allow appropriate municipal staff to participate in each aspect of the terms of reference. It is however important that there be consistency in interpretation of the technical work in developing implementation alternatives in the plan. Further, awareness of planning issues in the completion of technical work will also be important.
 - **Geographic (CA)**-Terms of Reference are required for each SP Area. Establishing a working group for each SP Area (CA) would result in 3 working groups being established. There are however municipalities who would need to be involved in 2 or all of the working groups. Consistency between the ToR for each SP Area will be more difficult with separate working groups. The terms of reference for each SPA will have many aspects in common including a common work plan.

Question 2: Should multiple municipal working groups be established? How should the working groups be defined? Could these same working groups be useful in working on the assessment report and plan?

- Source Protection planning needs to involve all stakeholders. As such it will be important for other stakeholder groups to be aware of and participate in the development of the terms of reference.

Question 3: Should a First Nation forum be planned for the participation of the First Nations in the development of the Terms of Reference? Are there other more effective methods for involving First Nations in the development of the Terms of Reference?

Question 4: Are there other user groups who require specific involvement in the development of the terms of reference other than through the required public meeting and 35 day comment period?

Question 5: Should the municipal working groups be extended to include representatives of other sectors?

Future Working Groups

- The Discussion Paper on Participation in the Source Protection Planning Process suggested example working groups but left it to the SPC to determine what working groups should be established.
- It was proposed that these working groups be established by the committee as required to complete a specific task.
- It will however be important to give some thought to longer based working groups which could be useful throughout the planning process.
- From the discussions above it is suggested that the municipal working groups may have a purpose beyond the development of the terms of reference.
- Other examples of working groups which might have a longer useful life (beyond single task specific workgroups suggested in the discussion paper) include:
 - **First Nations** - With eight First Nations communities in the region it will likely be important to have a venue for the participation of each of these distinct nations in the development of the plan. Although the CWA only establishes 3 seats on the committee the participation of all nations in the development of the plan will be important. A working group of the FNs may allow for this broader involvement.
 - **Communications** - Communication, education and outreach will be important implementation activities. The province has already funded education and outreach efforts related to Well Head Protection Areas and Intake Protection Zones. A working group focused on these activities would allow communications professionals interact with the SP communications team. Potential working group members could include municipal and health unit communicators as well as sector representatives. Meetings could be arranged so that the input of the working group could be utilized in future communications efforts including education and outreach efforts. Having an

established working group would allow for group discussion rather than having to set up numerous one on one meetings with the various working group participants.

- **Health Units** - In discussing the designation of the health unit liaison the health units also discussed the possibility of forming a working group to support the liaison on the SPCs. The health units in south western Ontario already get together to collaborate on many other programs. This group includes all the health units in our region as well as the Grey Bruce Health Unit. This working group would effectively support the liaisons on our committee as well as the Essex Region, Ausable-Bayfield Maitland Valley and Saugeen Grey Bruce Northern Bruce Peninsula Source Protection Committees.
- The discussion paper cautioned against sector specific working groups. Mixed sector working groups are preferred wherever possible to allow for the sharing of divergent perspectives at the working groups rather than leaving that potential conflict to occur only at the SPC. Two of the working groups suggested above are single sector working groups, however they do fill very specific purposes.
- The need for working groups beyond the Terms of Reference will be considered throughout the planning process. It will be important that the SPC provide opportunities for the stakeholders to be involved in the development of the Source Protection Plan through both working groups and forums.

Question 6: Would the SPC wish to establish any of these working groups at this time?

Question 7: Are there other sector specific working groups which need to be established? Are there other ways to integrate the various sectors into working groups?

Table 1 Preliminary Terms of Reference Consultation Schedule

Date	Item	Description
Mid January	Notice to Clerks	<ul style="list-style-type: none"> Let them know that work is underway on Terms of Reference Invite participation in forums and working groups
Mid January	Notice to Chiefs	<ul style="list-style-type: none"> Let them know that work is underway on Terms of Reference Invite participation in forums and working groups
Mid February	Municipal Forum	<ul style="list-style-type: none"> To outline municipal requirements and options that municipal councils need to decide on To solicit participation in municipal working groups Prepare clerks to get council resolutions
End of February	Municipal Working Groups established	<ul style="list-style-type: none"> Will allow for the adequate notice for first meetings and preparation by the working group members
Mid March	MWG mtg #1	<ul style="list-style-type: none"> Preliminary review of terms of reference components and work plan Discussion on which aspects of the plan municipalities intend to undertake themselves, through partnerships or wish to have the CAs undertake
Mid April	MWG mtg #2	<ul style="list-style-type: none"> Final review of terms of reference components and work plan
February to March	Discussions with neighbouring SP regions	<ul style="list-style-type: none"> Likely to involve a number of informal discussions and/or meetings Staff meetings likely with reports back to SPCs
Mid May	Municipal and First Nations Forums	<ul style="list-style-type: none"> Need to determine if the interest is there to hold these forums or whether a different venue (LDCC) is more appropriate
Late June	Notice	<ul style="list-style-type: none"> Advise of posting of the draft Terms of Reference on the web for comments Advise of public meeting Invite written comments Let people know where they can view the notice and the draft Notice to be posted on internet, public places and newspapers
Late June	Post Draft ToR on Web	<ul style="list-style-type: none"> Post for comments
July	Public Meeting	<ul style="list-style-type: none"> 20days after notice Very poor timing for a public meeting, but unlikely to be able to hold it before the summer vacation period. 1 meeting required, Likely should have 3 or 4
July, August	Municipal and Public Review	<ul style="list-style-type: none"> 35 day review period required
August 20, 2008	Submission to SPA	<ul style="list-style-type: none"> Deadline in OReg 287/07
October 20, 2008	Submission to MOE	<ul style="list-style-type: none"> Deadline in OReg 287/07